



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,941	10/30/2003	Klaus-Dieter Hammer	22135-00017-US	6279
59554 7590 03/15/2007 Womble Carlyle Sandridge & Rice, PLLC Attn: Patent Docketing 32nd Floor P.O. Box 7037 Atlanta, GA 30357-0037			EXAMINER O HERN, BRENT T	
			ART UNIT 1772	PAPER NUMBER
			MAIL DATE 03/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

12

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/695,941

Applicant(s)

HAMMER ET AL.

Examiner

Brent T. O'Hern

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): objection to cl. #10.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-4, 6-9, 11-13 and 15-19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

Nasser Ahmad
NASSER AHMAD
PRIMARY EXAMINER

3/13/07

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's Paper filed 8 March 2007 is confusing and Applicant is advised to clarify the record.

The header of Applicant's claims (at the top of pp. 2-4 of Applicant's Paper filed 8 March 2007), as well as pp. 5-9, refer to Application #10/280,817. However, Applicant's serial number is 10/695,941. Applicant appears to have erroneously mixed up the serial numbers regarding the multiple actions.

Applicant's amendments to the claims will be entered on the basis Applicant's amendments are referring to serial # 10/695,941.

Applicant's objection to claim #10 has been overcome.

In response to Applicant's argument (p. 5, para. 6 to p. 6, para. 2 of Applicant's Paper filed 8 March 2007) regarding the 35 USC 112 rejection of claim 12, it is noted that Applicant has not precisely addressed the basis of the rejection, thus the rejection is not withdrawn.

In response to Applicant's argument (p. 7, para. 1 of Applicant's Paper filed 8 March 2007) that the units according to formula II and III contain amino- or ammonium groups, it is noted that Applicant does not claim said negative limitations, thus Applicant's arguments are not germane to any issue at bar.

In response to Applicant's argument (p. 7, para. 2 of Applicant's Paper filed 8 March 2007) that the R7 cannot represent a hydrogen atom, it is noted that Applicant's statements are conclusory and Applicant has not presented any analysis regarding any issue at bar.

In response to Applicant's argument (p. 7, para. 3 of Applicant's Paper filed 8 March 2007) regarding claims 18-19, it is noted that Applicant's statements are conclusory and Applicant has not provided any analysis regarding any of the issues at bar with respect to claims 18-19.

In response to Applicant's argument (p. 8, paras. 3-4 of Applicant's Paper filed 8 March 2007) regarding claims 13-16, it is noted that Applicant's statements are conclusory and Applicant has not provided any analysis regarding any of the issues at bar with respect to claims 13 and 16.

R710
3-13-2007